

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)		<u>AMENDED ORDER</u>
BY DOUGLAS L. KUPER, LENNOX, SOUTH)		DISMISSING COMPLAINT
DAKOTA, AGAINST LINCOLN-UNION)		AND CLOSING DOCKET
ELECTRIC COMPANY REGARDING STRAY)		
VOLTAGE)		EL98-005

On March 6, 1998, the South Dakota Public Utilities Commission (Commission) received a complaint from Douglas L. Kuper (Kuper), Lennox, South Dakota, against Lincoln-Union Electric Company (Lincoln-Union) regarding stray voltage. In an Order dated April 28, 1998, the Commission made a finding of probable cause of an unlawful or unreasonable act, rate, practice or omission by Lincoln-Union. Lincoln-Union filed an answer dated May 18, 1998. Lincoln-Union by motion dated July 16, 1998, moved to dismiss the complaint of Kuper. A hearing on the motion to dismiss was held by the Commission on July 23, 1998, via teleconference. On August 4, 1998, the Commission voted to deny the motion to dismiss, Commissioner Burg dissenting. An Order to that effect was entered on August 14, 1998. A prehearing conference was scheduled for December 4, 1998, with the hearing scheduled for December 15, 1998, in Sioux Falls, South Dakota. Prior to the prehearing conference Mr. Kuper faxed a letter to the Commission Staff stating that there was no need to proceed with the hearing. Mr. Kuper was not present for the prehearing conference. The Commission decided to defer the matter to clarify the intent of Mr. Kuper to dismiss the complaint. On December 4, 1998, Mr. Kuper faxed a letter to the Commission stating, "I, Douglas L. Kuper withdraw my complaint against Lincoln-Union Electric Co. That the Commission will receive reports from Lincoln-Union Electric at various times." At its regularly scheduled meeting of December 7, 1998, Mr. Kuper confirmed that he wished to withdraw his complaint and have the Commission dismiss it without prejudice. The Commission voted unanimously to dismiss the complaint without prejudice and close the docket. The Commission also ordered that Staff's final report be filed in the docket and that an ongoing power review continue through the summer of 1999.

On May 12, 1999, at a regularly scheduled meeting, the Commission considered reports from Lincoln-Union which were dated February 12, 1999 and April 14, 1999. It also took comments from Lincoln-Union's manager, Brad Schardin, Kuper and the staff analyst Steve Wegman, all of whom were present via teleconference. Following a discussion of the complaint, the Commission voted to amend its December 30, 1998 order dismissing the complaint and closing the docket in two respects: (1) that a final report be filed by Lincoln-Union and (2) that the ongoing power review which was to continue through the summer of 1999 be suspended.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 1-26, 49-34A-58, and ARSD 20:10:01:08.01, et seq. It is therefore

ORDERED that the December 30, 1998 Order which dismissed the complaint and closed the docket shall be amended as follows:

1. A final report shall be filed with this Commission by Lincoln-Union as to its testing and monitoring efforts in this docket.
2. The ongoing power review which was to continue through the summer of 1999 shall, as of the date of this Amended Order, be suspended.

3. All terms of the Order dismissing this complaint and closing the docket not specifically modified by this amendment shall remain in effect.

Dated at Pierre, South Dakota, this 18th day of May, 1999.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner